



03 AUG 2006

NOVARTIS  
CORPORATE INTELLECTUAL PROPERTY  
ONE HEALTH PLAZA 104/3  
EAST HANOVER NJ 07936-1080

In re Application of	:	DECISION
BARANOWSKA-KORTYLEWICZ et al.	:	
Application No.: 10/521,299	:	
PCT No.: PCT/IB03/03257	:	
Int. Filing Date: 17 July 2003	:	
Priority Date: 19 July 2002	:	
Attorney Docket No.: ON/4-32590A	:	
For: ENHANCING THE EFFECT OF	:	
RADIOIMMUNOTHERAPY IN THE	:	
TREATMENT OF TUMORS	:	

This decision is in response to applicants' "Response to Decision of April 6, 2006 made in Response to Applicant's Petition under 37 C.F.R. 1.137(b)" filed in the United States Patent and Trademark Office (USPTO) on 18 April 2006.

### **BACKGROUND**

On 17 July 2003, applicants filed international application PCT/IB03/03257, which designated the U.S. and claimed a priority date of 19 July 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 29 January 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 January 2005.

On 14 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 20 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant must provide an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date. The NOTIFICATION set a two-month extendable period for reply.

On 14 February 2006, applicants submitted a petition under 37 CFR 1.137(b), which was accompanied by, *inter alia*, a declaration of inventors.

On 06 April 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.137(b) because the required reply had not been provided. Specifically, it was noted that the declaration of inventors filed 14 February 2006 was not in compliance with 37 CFR 1.497(a)-(b) because the last named inventor is identified in the international application as Christian Pietras while the declaration of inventors identifies him as Kristian Pietras.

On 18 April 2006, applicants submitted the instant "Response to Decision of April 6, 2006 made in Response to Applicant's Petition under 37 C.F.R. 1.137(b)".

### **DISCUSSION**

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants' explanation of the difference in the spelling of Kristian Pietras's name is accepted and noted for the record. The declaration of inventors filed 14 February 2006 is in compliance with 37 CFR 1.497(a)-(b).

As to item (2), applicant submitted the petition fee on 14 February 2006.

As to item (3), the required statement has been provided.

### **CONCLUSION**

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.



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